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# TRANSCRIPT OF RECORD

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## Supreme Court of the United States

OCTOBER TERM, 1926

No. 306

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CORNELIUS ANDERSON, SUING ON BEHALF OF  
HIMSELF AND ALL OTHER SEAMEN, ETC.,  
PETITIONER,

*vs.*

SHIPOWNERS ASSOCIATION OF THE PACIFIC  
COAST, PACIFIC AMERICAN STEAMSHIP ASSO-  
CIATION, THEIR MEMBERS, ETC., ET AL.

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ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT  
COURT OF APPEALS FOR THE NINTH CIRCUIT

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PETITION FOR CERTIORARI FILED MARCH 1, 1926

CERTIORARI GRANTED APRIL 19, 1926

(31,735)

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In the Southern Division of the District Court of  
the United States in and for the Northern Dis-  
trict of California, Third Division.

IN EQUITY—(No. 1486).

CORNELIUS ANDERSON, Suing on Behalf of  
Himself and All Other Seamen Employed in  
Interstate and Foreign Commerce by Sea  
on Vessels Flying the Flag of and Engaged  
in the Merchant Service of the United States  
of America and Sailing to and from Ports  
on the Pacific Coast of the said United  
States,

Plaintiff,

vs.

SHIPOWNERS ASSOCIATION OF THE PA-  
CIFIC COAST, PACIFIC AMERICAN  
STEAMSHIP ASSOCIATION, Their  
Members, Associates, Agents and Servants,  
JOHN DOE and RICHARD ROE,

Defendants.

## (COMPLAINT FOR AN INJUNCTION, ETC.)

Plaintiff complains of the defendants and for cause of action alleges:

## I.

That plaintiff is a resident of the City and County of San Francisco, State of California, was born in the Kingdom of Norway, and more than four years ago he declared his intentions of becoming a citizen of the United States of America, and for more than twenty years last past he has been employed as a seaman, in the capacity of sailor in working on American merchant vessels that carried passengers and cargo between different ports in the several states of the Pacific Coast of the United States of America, and also between such ports and Atlantic and foreign ports and is desirous of continuing in such employment.

## II.

That plaintiff is associated by and through an unincorporated association of persons called the International Seamen's Union of America, with about ten thousand other seamen, working as seamen on vessels engaged as in paragraph I hereof and hereinafter stated, in the capacity of oilers, sailors, water-tenders, cooks, firemen, quartermasters, winch-drivers, stewards, seamen and in other capacities, and their number being so large as aforesaid, it is impossible to unite all of such persons so employed with plaintiff as plaintiffs in

this action and [1\*] complaint, and plaintiff brings this action on his own behalf, and on behalf of all seamen affected by the acts herein complained of, such acts being matters of common and general interest among all such seamen, and it is further impracticable to unite all such seamen as plaintiffs in one action, and for that reason also, and also to prevent a multiplicity of actions, plaintiff brings this action on his own behalf and on behalf of all such seamen.

### III.

That defendant, Shipowners Association of the Pacific Coast, is a membership corporation, organized and existing under and by virtue of the laws of the State of California, with its office and principal place of business in the City and County of San Francisco, State of California, and its membership now, and at the times herein mentioned, was and is substantially every person, firm, corporation or association of persons, owning or operating, or acting as managing owner of every vessel engaged in interstate and/or foreign commerce documented in the different offices of United States Collectors Of Customs on the Pacific Coast of the United States of America.

### IV.

That defendant, Pacific American Steamship Association, is, and at the times above mentioned was, a voluntary unincorporated association of persons that owned, operated or controlled, or now own, operate and control, every merchant vessel

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\*Page-number appearing at foot of page of original certified Transcript of Record.

flying the flag of and engaged in the merchant service of the United States of America, between Pacific coast ports of said United States and foreign and Atlantic ports, and at said times it had, and now has its office and principal place of business in the said City and County of San Francisco, State of California.

V.

That collectively, the members of the said Ship-owners Association of the Pacific Coast, and the said Pacific American Steamship Association, own, operate, or control, and also did so at said times, every vessel flying the flag of and engaged in the merchant service of the United States of America, in carrying passengers and cargo between the [2] several ports of the Pacific coast of the said United States of America and such ports on the Atlantic coast of said United States of America and also foreign ports, and collectively employ all seamen so employed on such vessels.

VI.

That the true names of the defendants in the caption hereof named as John Doe and Richard Roe are unknown to the plaintiff and he therefore prays that when such true names are ascertained they may be inserted herein by amendment.

VII.

That on or about the 1st day of January, 1922, the defendants herein associated and combined together to restrain the freedom of plaintiff and all other seamen on the said Pacific Coast in engaging in commerce between the several states on the

Pacific coast aforesaid and said states and states on the said Atlantic coast and also foreign ports and nations, all by sea, and to that end they established and now maintain offices in San Francisco and San Pedro in the State of California, at which offices almost all seamen who are employed on vessels engaged in the trade and commerce aforesaid are engaged and/or supplied by the defendants to the operators of such vessels so engaged in the trade and commerce aforesaid, the offices of the defendants in said San Francisco being located at number 330 Battery Street therein.

#### VIII.

That as a condition of being employed in such trade and commerce on vessels flying the American flag, the said defendants compel all seamen seeking such employment to register and take a number and take his turn for such employment according to such number, and no seaman can secure employment as aforesaid on the said Pacific coast unless he takes such number and his turn for employment according to such number, which frequently prevents seamen of good qualifications and well known from obtaining employment at once, when but for the actions of the defendants herein complained of those seamen well known by the master and other [3] officers on such vessels who prior to the actions of the defendants herein complained of invariably selected the seamen on such vessels, they would obtain work at once, and as a condition of obtaining such employment they also compel all seamen desiring to engage and be employed in the



trade and commerce aforesaid to take at a price of twenty-five cents for each book and carry such book upon which there is printed among other things the following:

“Employment Service Bureau,  
Pacific American Steamship Association, Ship-  
owners Assn. of the Pacific Coast, San Fran-  
cisco, California.

This certificate and discharge is issued under the authority of the Pacific American Steamship Association and the Shipowners' Association of the Pacific Coast, and no person will be employed by these associations unless he is registered at their employment offices and has in his possession this Certificate and Discharge.

The lawful holder of this certificate will deliver it to the Master of the vessel when he signs Articles of Agreement, and the Master will retain the same in his possession until the seaman is discharged or has left the employment.

When the seaman severs his connection with the employment the Master will deliver this Certificate to the owner after he, or a person designated by him, has filled out in the proper columns the record of the seaman's service, and the reason of the discharge.

This Certificate is the personal record of the seaman and is the basis of his future employment; the seaman is therefore advised to keep the same carefully and to conduct himself so that his record will be found satisfactory for future service.

If this certificate is lost or stolen a duplicate will

*Shipowners Assn. of the Pacific Coast et al.* 7

be furnished upon proper presentation at the Employment Service bureau.

If this Certificate is found by any person the same should be returned to the Employment Service Bureau.

PACIFIC AMERICAN STEAMSHIP ASSOCIATION.

SHIPOWNERS ASSN. OF THE PACIFIC COAST.

By W. J. PETERSON,  
General Manager. [4]

TO MASTERS.

When a seaman joins your vessel, he will have this book and a card assigning him to your vessel; take up this book and retain it until the seaman is discharged or quits the vessel. When the seaman is discharged or quits the employment make out a report in this book of his rating, conduct and efficiency and return the book to him. If the seaman deserts write a report of the facts in this book and return the same to the Employment Service Bureau.

TO SEAMAN.

When you receive this book you will be given a registered number which will be placed in the back of this book. When you leave your ship you must report to the Employment Service Bureau and get a new registered number. This registration number is given you when you apply for a job and has nothing to do with the number printed on the book." \* \* \*

That in addition to the above book, which is

called a continuous discharge book, said defendants further require all seamen desiring to engage or be employed in the trade and commerce aforesaid to upon being designated for employment at the offices aforesaid to take a card in the words and figures following, to wit:

### ASSIGNMENT CARD.

“Report to———.

Applicant must report back to the above if he fails to get the job, San Francisco.

To Captain of S. S. (Name of Steam Vessel).

Lying at (Place where vessel is lying). In response to an order we are assigning (Name of person assigned) in the capacity of (Capacity here inserted).

Discharge Book No.———. Registration No.———. Monthly Wages

\$———

EMPLOYMENT SERVICE BUREAU.  
SHIPOWNERS ASS'N OF THE PACI-  
FIC COAST,  
PACIFIC AMERICAN STEAMSHIP  
ASS'N,  
WATER FRONT EMPLOYERS UNION,  
330 Battery St.

W. J. PETERSON,  
General Manager.

See Other Side. [5]

The other side of said card reading as follows:

“FILL OUT AND RETURN TO THIS OF-  
FICE WHEN SEAMAN IS DISCHARGED OR  
QUITS SHIP.

Date of Entry for pay ———. Place ———.

Date Discharged ———. Place ———.

REPORT ABILITY AND CONDUCT,  
WHETHER "POOR" "FAIR" "GOOD"  
OR "VERY GOOD"

"ABILITY" ———. "CONDUCT" ———.

Cause of Discharge —————

Remarks —————

Captain's signature —————

NOTICE—THIS CARD IS NOT TO BE  
GIVEN TO SEAMAN BUT TO BE DELIV-  
ERED OR MAILED DIRECT TO EMPLOY-  
MENT SERVICE BUREAU.

That the blank spaces in the above and the fol-  
lowing card are filled out at defendants' offices to  
meet the facts of each seaman's employment, and  
the above card is gray in color, and is the card  
designated "GREY IN COLOR" in the card here-  
inafter mentioned.

#### IX.

That in addition to the card and book hereinbe-  
fore mentioned, defendants also issue and use an-  
other card in connection with the employment of  
each man (seaman) in the trades and commerce  
aforesaid, the following being a copy of such card  
used for the engine department, and similar cards  
being used by them as aforesaid in the deck and  
stewards department which exist on each of the  
vessels aforesaid, to wit:

"Engine Dept. 5000 11-8-24

TO CAPTAINS OR OTHER EXECUTIVE OFFICERS:

Mr. \_\_\_\_\_

Is registered in the ENGINE DEPARTMENT.

As \_\_\_\_\_

BUT HE MUST NOT BE EMPLOYED ON YOUR SHIP IN ANY CAPACITY Unless he presents an Assignment Card, GREY IN COLOR, issued by us and addressed to your vessel designating the position to which we have assigned him.

NOT GOOD AFTER 2 MONTHS FROM DATE.

EMPLOYMENT SERVICE BUREAU  
SHIPOWNERS ASS'N OF THE PACIFIC COAST,  
PACIFIC AMERICAN STEAMSHIP ASS'N,  
WATERFRONT EMPLOYERS UNION,

330 Battery Street, San Francisco.

That in addition to the foregoing each seaman applicant at said office for a position through said office in the trade and commerce aforesaid and receiving one of said books is required to have written thereon his place of birth, his age, his date of birth, his height, his weight, the color of his hair, the color of his eyes, his complexion, his rating, the total years of his sea experience, his previous em-

Registration.

This space for number.

Discharge Book

This space for number of discharge book.

Here appears citizenship or alienage. [6]

ployers, and his photograph is also required but not insisted on.

### X.

That the said matters are regulations of commerce among the several states and with foreign nations, in violation of the provisions of Subdivision 3, of Section 8, of Article I of the Constitution of the United States, and have been fully provided for by the Congress of the United States in the act of Congress of June 7th, 1872, commonly called and known as the Shipping Commissioners Act and the various Acts of the said Congress amendatory and supplemental thereto, in so far as the judgment of said Congress deemed it necessary they should be provided for.

### XI.

That the said regulations of commerce restrain seamen from freely engaging in the trade and commerce aforesaid including the plaintiff and no seaman on the Pacific coast aforesaid can get employment without obeying such rules and regulations, excepting only in very few instances, as the vessels under the control of defendants exceed in number 300 vessels and comprise nearly all of the vessels engaged in such trade and commerce, and plaintiff cannot get work without obeying such rules and regulations as hereinafter appears, and such rules and regulations are humiliating to all seamen for, [7] among others, they destroy his freedom of contract, and his right to select his ship, trade and employer, and make him subservient to the will of the employees of defendants at

the offices aforesaid who neither employ or pay him, and the said taking of turns for employment also is humiliating for the reason that it places the nonefficient on the same plane as the efficient employee, or seaman, and is destructive of competition in the calling and stifles the desire for improvement, and large numbers of the best seamen on the said Pacific coast have left the seafaring calling on account of the enforcement of such rules and regulations, and defendants threaten to and will continue to enforce said rules and regulations to the detriment of plaintiff and other seamen on said Pacific coast unless restrained by this Honorable Court from doing so, that under such rules and regulations a seaman can be black-listed, he has nothing to say about what is written in his said discharge book as to his character, and no appeal from what the master of the vessel he is on or the person designated by such master may write therein, and the whole scheme makes him entirely subservient to the will of defendants who neither employ or pay him when he is engaged in his calling as a seaman.

## XII.

That on the 15th day of June, 1925, plaintiff applied at the office of defendants at number 330 Battery Street, in the City and County of San Francisco, seeking employment as a seaman in interstate or foreign commerce and was there by defendants refused registration or a number for turn for employment unless he produced the discharge book, or a discharge book hereinbefore mentioned,

and failing to produce one he was refused either registration or employment, that thereupon he looked for work as a seaman among vessels lying in the port of San Francisco, and on the 18th day of June, 1925, he was engaged by the mate of a vessel called the "Caddopeak," which said vessel is and was on said day engaged in carrying cargo between San Francisco and San Pedro in the State of California, and the State of [8] Washington, and then and there had a cargo on board brought from that state to be unloaded in the State of California, and plaintiff was engaged by said mate to assist in such unloading and thereupon the said mate gave plaintiff a paper which reads as follows:

"June 18th.

Please send bearer C. Andersen to S. S. "Caddopeak."

A. J. RYNDBERG,  
Mate."

And the said mate thereupon told plaintiff to take said paper to the office of defendants at 330 Battery Street, San Francisco, aforesaid, for plaintiff's assignment to said "Caddopeak" as a sailor, that plaintiff went to said office of defendants and was there told by defendants that he could not be employed on said "Caddopeak" at all, that they had too many men around their office now and he said plaintiff was refused the consent of defendants to be so or at all employed on said "Caddopeak," that shortly thereafter plaintiff met the said mate on a street and was told by said mate to report on



board of said "Caddopeak" at one o'clock in the afternoon of said 18th day of June, 1925, to work as a sailor in unloading said cargo, and plaintiff so reported at said time and was then and there told by said mate that he could not set him at work as he had received orders from the Port Captain of the Charles Nelson Company who own and operate said "Caddopeak" to take no seamen on her except through the office of defendants, the said Port Captain having authority from the owner and operator of said steamer to give such order and he gave it aforesaid, and by reason of the matters aforesaid plaintiff lost said employment, which was at the wages of \$75.00 dollars per month and his board and lodging which were reasonably worth the sum of \$60.00 dollars per month, and said employment would have been from said San Francisco, to San Pedro, both in the State of California, and from said San Pedro back to said San Francisco and from there to the State of Washington and from there back to said San Francisco again with a cargo taken from California to the State of Washington and another cargo from said State of Washington back to California.

### XIII. [9]

That the duration of said employment would have been at least a month, and plaintiff's losses by reason of the premises aforesaid was the sum of at least \$135.00 dollars, and he was experienced in the work for which he was engaged by said mate and of good habits, and at the time he was finally told by said mate that he could not be employed as

aforesaid another seaman was refused employment for the same reason, that said other seaman having also been previously and on the same day engaged by said mate to serve as a sailor on said vessel on the voyage aforesaid and to discharge the cargo aforesaid, and at said time it left said "Caddo-peak" without any sailors, and the work of discharging the cargo of said vessel was being performed by longshoremen at an advance wage of \$4.00 per day per man.

#### XIV.

That defendants although employing no seamen fix the wages that shall be paid seamen in the trade and commerce aforesaid, and refuse to discuss wage questions or working conditions with seamen or those representing them, but arbitrarily fix such wages and conditions all in the trade and commerce aforesaid.

#### XV.

That plaintiff has already been damaged in the sum of \$135.00 dollars by reason of the foregoing complained of acts and rules and regulations of defendants, and said damage will continue unless defendants be restrained from further interfering with the right of plaintiff to freely seek and obtain employment in his calling.

#### XVI.

That prior to the adoption of the rules and regulations aforesaid mates of vessels engaged in the trade and commerce aforesaid always engaged sailors, for the reason that the mate is the executive officer of such vessels, and works said men on

said vessels, and when in port the masters of said vessels are usually on shore attending to the on shore business of the ship, and plaintiff does not know the names of the agents and servants, members and associates of defendants mentioned in the caption hereof, excepting only W. J. Peterson, their manager. [10]

#### XVII.

That neither the plaintiff nor any other seaman in the caption hereof mentioned has any plain, speedy, or other or adequate remedy at law for the matters herein complained of.

#### XVIII.

That in the trade and commerce aforesaid some vessels exclusively carry lumber, for which one class of men are suited to handle, some carry other cargo that another class of men are suited to handle, and some make long and some make short voyages, but under the system adopted by defendants when a seaman's turn comes, he must take the job the turn offers whether he is suited to the trade or not, and whether he wishes to engage on the particular vessel his turn calls for or not, or lose his turn, and the officers of said vessels are deprived of the right to select their own men, or the men most suitable to the trade they are engaged in, and defendants have since their organization claimed the right to and do, engage and/or supply the seaman to all of the vessels hereinbefore mentioned, and in the enforcement of the rules and regulations aforesaid restrain the right of all of such seamen to freely engage in the interstate and foreign commerce aforesaid.

XIX.

That the words "Applicant must report back to the above if he fails to get the job" on the grey card aforesaid, only cover the case of a mistake in an order, and not the right of selection by the mate or other officer of a vessel, as vessels are required to take the particular man sent to them by defendants, defendants so requiring them to do so.

WHEREFORE plaintiff prays judgment against the defendant for the sum of one hundred and thirty-five (\$135.00) dollars damages and such other damages as plaintiff may suffer by a continuation of the complained of acts of the defendants and prays that such damages may be trebled, and further prays for a reasonable attorneys fee herein. [11] And he further prays on behalf of himself and all other seamen as hereinbefore mentioned that this Honorable Court will issue its restraining order herein after due notice, restraining the defendants and all other persons acting in concert with them, from doing or performing any of the acts complained of herein, or requiring any of such seamen, plaintiff included, to either register at defendant's office as a prerequisite to obtaining employment in interstate and foreign commerce, or carry the continuous discharge book mentioned herein, or obtain said grey card, or come in contact with the defendants at their said offices at all or either thereof as a prerequisite to obtaining such employment on the vessels and in the trade hereinbefore mentioned, or to purchase said continuous discharge book, or requiring such seamen or any of

them to obey or perform any of the defendants' rules and regulations hereinbefore complained of, and that a permanent injunction issue herein restraining defendant and each thereof, their agents, servants, associates and all persons acting in concert with them in like terms as hereinbefore prayed, to wit, from requiring plaintiff or *or* any other seaman to either register at defendants office or offices, take his turn for employment, purchase or carry said continuous discharge book, carry said grey card, or obey any of defendants' rules and regulations as a condition of obtaining employment in the trade and commerce aforesaid.

Plaintiff on behalf of himself and all of such seamen in the caption hereof named, further prays for his costs herein and such other and further relief as the Court is competent to give in the premises.

H. W. HUTTON.

Attorney for Plaintiff. [12]

[Duly verified]

Filed Jun. 22, 1925. [13]

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(Title of Court and Cause.)

### MOTION TO DISMISS BILL OF COMPLAINT.

Now comes Shipowners Association of the Pacific Coast and Pacific American Steamship Association, defendants in the above-entitled action, and move the above-entitled Honorable Court to dismiss the bill of complaint herein on each and all of the following grounds, to wit:

I.

That it appears on the face of said bill of complaint that this Court has no jurisdiction to hear and determine this suit.

II.

That it appears on the face of said bill of complaint that this Court has no jurisdiction of the subject matter of this suit.

III.

That said bill of complaint does not set forth facts sufficient to constitute a cause of action.

IV.

That said bill of complaint does not set forth facts sufficient to constitute a cause of action at law or in equity against said defendants, Shipowners Association of the Pacific Coast and Pacific American Steamship Association, or against either of them.

V.

That said bill of complaint does not set forth facts sufficient to constitute a cause of action at law or in equity in favor of plaintiff, Cornelius Andersen, against said defendants, Shipowners Association of the Pacific Coast and Pacific American Steamship Association or against either of them.  
[14]

VI.

That said bill of complaint does not set forth facts sufficient to constitute a valid cause of action at law or in equity in favor of the purported class of persons on behalf of whom said bill of complaint is brought, against said defendants, Shipowners

Association of the Pacific Coast and Pacific American Steamship Association, or against either of them.

#### VII.

That it appears on the face of said bill of complaint that no question is therein set forth of common or general interest to many persons constituting a class so numerous as to make it impracticable to bring them all before the court, or of common or general interest to the purported class of persons on behalf of whom said bill of complaint is brought.

#### VIII.

That said bill of complaint does not set forth facts sufficient to authorize or entitle said plaintiff, Cornelius Andersen, to sue on behalf of the purported class of persons on behalf of whom said bill of complaint is brought.

#### IX.

That said bill of complaint does not set forth facts sufficient to entitle plaintiff to damages, or to an injunction, or to a temporary injunction, or to a restraining order.

#### X.

That said bill of complaint does not set forth facts sufficient to entitle plaintiff to any relief whatever.

#### XI.

That said bill of complaint is wholly without equity.

WHEREFORE, defendants, Shipowners Association of [15] the Pacific Coast and Pacific American Steamship Association, pray that this

Honorable Court make its order dismissing bill of complaint on file herein, and that they have and recover judgment for costs herein incurred.

C. F. ELDRIDGE,  
GEORGE O. BAHRs,

Attorneys for Defendants, Shipowners Association  
of the Pacific Coast, and Pacific American  
Steamship Association.

Filed Jul. 10, 1925. [16]

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(Title of Court and Cause.)

OPINION.

Motion to Dismiss Granted.

August 21, 1925.

PARTRIDGE.—In this case I am bound by the decision of the Supreme Court of the United States in *Street vs. Ship Owners Association*, 263 U. S. 334, and the decision of the Court of Appeals for this Circuit in *Street vs. Ship Owners Association*, 299 Fed. 5, and *Tilbury vs. Oregon Stevedoring Company*, filed August 3, 1925, and not yet reported.

The motion to dismiss is therefore granted.

Filed Aug. 22, 1925. [17]

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At a stated term, to wit, the July term, A. D. 1925, of the Southern Division of the United States District Court for the Northern District of California, Second Division, held at the courtroom in the City and County of San Francisco, on Saturday, the 22d day of August, in the year of our Lord one thousand nine hundred and



twenty-five. Present: The Honorable JOHN S. PARTRIDGE, District Judge.

[Title of Cause.]

(ORDER GRANTING MOTION TO DISMISS.)

Defendants' motion to dismiss heretofore heard and submitted, being now fully considered, and the Court having filed its written opinion thereon, it is, in accordance with said opinion, ORDERED that said motion to dismiss be and the same is hereby granted. [18]

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(Title of Court and Cause.)

FINAL DECREE.

The motions of the defendants in the above cause to dismiss the bill of complaint on file herein having been heretofore, and on the 22d day of August, 1925, granted by the Court in the above-entitled cause,—

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff's bill of complaint herein be, and the same is hereby, dismissed, with costs to the defendants.

Dated: August 27, 1925.

JOHN S. PARTRIDGE,  
Judge.

Filed and entered Aug. 27, 1925. [19]

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[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Plaintiff designates and files the following assign-

ment of errors upon which he will rely in the prosecution of his appeal in the above-entitled cause from the final decree given and made by the above-entitled court on the 27th day of August, 1925, in the above cause.

That the District Court of the United States, for the Southern Division, Northern District of California, Third Division, in giving its opinion and rendering its final decree of August 27th, 1925, erred as follows:

1. In finding and deciding that it, said court, was bound by the decision of the Supreme Court, of the United States, in the case of *Street vs. Shipowners Association, et al.*, 263 U. S. 334, for the reason that all that was decided in said decision was, that an appeal therein could not be taken direct to the Supreme Court of the United States in that case,

2. In finding and deciding that it, said court, was bound by the decision of the United States Circuit Court of Appeals for the Ninth Circuit, in the case of *Street vs. Shipowners Association et al.*, 299 Fed. 5, for the reason, that in the within case it appears, that plaintiff herein made demand on the defendants for registration and employment and was refused, and also obtained employment and suffered loss, by the loss of such employment, because he had not complied with defendants' rules, both of which state of fact were absent in the said case in which Alfred Street was plaintiff. [20]

3. In finding and deciding that it, said Court, was bound by the decision of the United States

Circuit Court of Appeals for the Ninth Circuit, in the case of *Tillbury vs. Shipowners Association et al.*, decided by that court on the 3d day of August, 1925, for the reason, that none of the navigation laws of the United States relating to seamen were involved in that case, nor was the manning or navigation of vessels, but it related to the employment of stevedores alone.

4. In not finding and deciding that defendants' rules and regulations complained of in the complaint herein unlawfully interfered with the right of plaintiff, and all other seamen mentioned, to freedom of contract in obtaining employment.

5. In not finding and deciding that the policy of the United States as expressed by the acts of Congress as to the employment and discharge of seamen was exclusive.

6. In not finding and deciding that the rules of the defendants complained of herein, interfered with the right of each of its members, and their masters and/or mates of vessels to select their own employees.

7. In not finding and deciding that the complained of rules and regulations of defendants in the discharge of seamen, were regulations of interstate and foreign commerce, and therefore violated the provisions of Section 8, of Article I of the Constitution of the *United in* that such rules and regulations were within the exclusive power of Congress to make.

8. In not finding and deciding that defendants are in the business of supplying seamen in inter-

state and foreign commerce, and are thereby violating the provisions of Sections 4514 and 4515 of the Revised Statutes of the United States.

9. In not finding and deciding that the rules complained of in the complaint herein violated the provisions of Section 4508 of the Revised Statutes of the United States, and that the provisions of said section are exclusive as to the things therein required to be done by a United States Shipping Commissioner. [21]

10. In not finding and deciding that the certificate of discharge containing the "character, conduct and qualifications" of seamen provided for in section 4553 of the Revised Statutes of the United States, and the provisions of said section are exclusive, and that the continuous discharge book provided for by defendants' rules and regulations, and the report of the master on each seaman to defendants violate the provisions of said section 4515 of said Revised Statutes.

11. In not finding and deciding that the duties of a United States Shipping Commissioner as provided by the Revised Statutes of the United States in relation to the shipment, supplying and discharge of seamen are exclusive.

12. In not finding and deciding that the provisions of section 4507 and 4508 of the Revised Statutes of the United States, each provide the exclusive manner in which the acts mentioned in each of said sections shall be performed.

13. In not finding and deciding that the rules prescribed by defendants, and each thereof, the complying with which by plaintiff were necessary to

enable him to sell his labor and engage in interstate and foreign commerce, interfered with plaintiff's right to dispose of his labor to his own best advantage, and thereby interfered with his property right to so dispose of his labor.

14. In not finding and deciding that each and the whole of defendants' rules complained of in the complaint herein, restrained plaintiff and all other seamen from freely engaging in interstate and foreign commerce.

15. In not finding and deciding that when the whole of one of the instrumentalities through which interstate and foreign commerce by sea is carried on was restrained, that the whole of such commerce is restrained.

16. In not finding and deciding that plaintiff could not be required to do more than the law required him to do in order to sell his labor and engage in interstate and foreign commerce by sea. [22]

17. In not finding and deciding that the rules of defendants complained of in the complaint herein, and their enforcement, deprived plaintiff of his property right to sell his labor without lawful authority, and *were the* taking of property without due process of law.

18. In not finding and deciding that the complained of rules of defendants mentioned in the complaint herein violated the spirit of the Constitution of the United States, as expressed in the following language contained in the preamble thereto, to wit:

“In Order to \* \* \* promote the general Welfare, and secure the Blessings of Liberty

to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

19. In not finding and deciding that the complained of rules of defendants violated Amendment IX to the Constitution of the United States, which reads:

“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

20. In granting the motion of each of the defendants to dismiss plaintiff’s complaint herein.

21. In rendering a decree dismissing plaintiff’s complaint herein.

22. In granting each of the grounds of the motion of the defendants to dismiss plaintiff’s complaint.

23. In deciding that plaintiff’s complaint did not set forth facts sufficient to constitute a cause of action as to either of the defendants or both of them.

24. In deciding that plaintiff’s complaint was without equity.

25. In deciding that plaintiff’s complaint did not set forth facts sufficient to entitle plaintiff to any relief.

26. In deciding that it was without jurisdiction of plaintiff’s action.

29. In not finding and deciding that defendants’ rules complained of violated the provisions of the Constitution of the United States.

30. In not finding and deciding that when defendant deprived plaintiff of his employment on

the "Caddopeak" they interfered with his right to engage in interstate commerce. [23]

31. In not finding and deciding that each of the acts of the defendants as complained of in plaintiff's complaint were violative of the provisions of the anti-trust laws of the United States, to wit, the act commonly known as the Sherman Act, and the act commonly called the Clayton Act.

32. In not finding and deciding that each of the acts of the defendants complained of in plaintiff's complaint violated each of the acts mentioned in the last paragraph hereof, in that they restrained interstate and foreign commerce by sea.

33. In not finding and deciding that Congress has supplied all the rules and regulations that can be supplied in the supplying, engaging and discharging of seamen in interstate and foreign commerce.

34. In not finding and deciding that a seaman engaged in interstate and foreign commerce on American Merchant vessels has a right common to all other employees of selecting his own employer, his own trade, and his own place of employment, excepting only under such rules and regulations, as Congress may prescribe.

35. In not finding and deciding that the taking of turns for employment was bound to reduce the standard of efficiency of those compelled to comply therewith.

36. In not finding and deciding that plaintiff and all other seamen engaged in interstate and foreign commerce, had a right to engage therein with-

out taking his turn for employment and without being subservient to the prior demands of anyone, excepting only as a prospective employer might desire to employ him.

37. In not finding and deciding that *that* defendants associations were combinations in restraint of trade, and abridged the rights of plaintiff and all other seamen employed in interstate and foreign commerce by sea as American seamen, and therefore are unlawful.

H. W. HUTTON.

Attorney for Plaintiff.

Filed Aug. 28, 1925. [24]

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[Title of Court and Cause.]

PETITION FOR ALLOWANCE OF APPEAL  
AND ORDER ALLOWING APPEAL.

Cornelius Andersen, the plaintiff above named, on behalf of himself and all other seamen engaged in interstate and foreign commerce by sea, on vessels flying the flag of the United States of America, and sailing to and from ports on the Pacific Coast of the United States of America, feeling themselves aggrieved by the final decree given made and entered in this cause by the above-entitled court on the 27th day of August, one thousand nine hundred and twenty-five (1925), hereby petitions for the allowance of an appeal from and does hereby appeal from said decree to the United States Circuit Court of Appeals for the Ninth Cir-



cuit, for the reasons specified in the assignments of errors, which is filed herewith.

And he prays that his said appeal be allowed and that citation issue as provided by law, and that a transcript of the records, proceedings and papers upon which said decree was based, and the record since said decree, duly authenticated, be sent to the said United States Circuit Court of Appeals for the Ninth Circuit, sitting at the City and County of San Francisco, State of California.

And your petitioner prays that the proper order allowing said appeal be made, also fixing the amount of the security to be required [25] of him to effect his said appeal.

Dated at San Francisco, California, the 28th day of August, 1925.

H. W. HUTTON,

Attorney for said Petitioner,

Upon presenting the foregoing petition of Cornelius Anderson, as aforesaid, asking for the allowance of an appeal from the final decree given and made and entered in the above cause and herein, on the 27th day of August, 1925, to the United States Circuit Court of Appeals for the Ninth Circuit,—

IT IS ORDERED that such appeal be allowed as prayed for in said petition, and the same is hereby allowed.

IT IS FURTHER ORDERED that the bond on said appeal be, and the same is hereby fixed at the sum of Three Hundred (\$300.00) Dollars, the

same to act as a bond for costs and damages on the appeal.

Dated this 28th day of August, one thousand nine hundred and twenty-five (1925).

JOHN S. PARTRIDGE,  
Judge.

Filed Aug. 28, 1925. [26]

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BOND ON APPEAL.

Bond for costs and damages in the sum of \$300,  
filed August 29, 1925.

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(Title of Court and Cause.)

PRAECIPE FOR RECORD ON APPEAL.

To the Clerk of said Court:

Sir: Please prepare and issue record on appeal  
in the above case consisting of the following papers:

1. The complaint.
2. Motion to dismiss.
3. Opinion of the Court.
4. Order granting motion to dismiss.
5. Decree.
6. Petition for appeal and order allowing appeal.
7. Assignment of errors.
8. Bond on appeal.
9. Citation on appeal (original).

H. W. HUTTON,  
Attorney for Plaintiff.

Filed Aug. 28, 1925. [29]

(Title of Court and Cause.)

**CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT OF RECORD.**

I, Walter B. Maling, Clerk of the District Court of the United States, in and for the Northern District of California, do hereby certify the foregoing twenty-nine (29) pages, numbered from 1 to 29 inclusive, to be a full, true and correct copy of the record and proceedings as enumerated in the praecipe for record on appeal as the same remains of record and on file in the office of the Clerk of said Court in the above-entitled cause, and that the same constitutes the record on appeal to the United States Circuit Court of Appeals, for the Ninth Circuit.

I further certify that the cost of the foregoing record on appeal is \$4.75; that said amount was paid by the plaintiff and that the original citation issued in said cause is hereto annexed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 31st day of August, A. D. 1925.

[Seal]

WALTER B. MALING,

Clerk of the United States District Court, Northern District of California. [30]

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**CITATION ON APPEAL.**

**UNITED STATES OF AMERICA—ss.**

The President of the United States, To Shipowners Association of the Pacific Coast; Pacific American Steamship Association, Their Mem-

bers, Associates, Agents and Servants, John Doe and Richard Roe, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court for the Northern District of California, wherein Cornelius Andersen, suing on behalf of himself and all other seamen employed in interstate and foreign commerce by sea on vessels flying the flag of and engaged in the merchant service of the United States of America, and sailing to and from ports of the Pacific Coast of the said United States, is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable JOHN S. PARTRIDGE, United States District Judge for the Northern District of California, this 28th day of August, A. D. 1925.

JOHN S. PARTRIDGE,  
United States District Judge. [31]  
Filed Aug. 28, 1925.

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[Endorsed]: No. 4682. United States Circuit Court of Appeals for the Ninth Circuit. Cornelius Anderson, Suing on Behalf of Himself and All

Other Seamen Employed in Interstate and Foreign Commerce by Sea on Vessels Flying the Flag of and Engaged in the Merchant Service of the United States of America, and Sailing to and from Ports of the Pacific Coast of the said United States, Appellant, vs. Shipowners Association of the Pacific Coast, Associates, Agents and Servants, John Doe and Richard Roe, Appellees. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, Third Division.

Filed September 1, 1925.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.

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In the United States Circuit Court of Appeals for  
the Ninth Circuit.

CORNELIUS ANDERSEN, etc.,

Plaintiff and Appellant,

vs.

SHIPOWNERS ASSOCIATION OF THE PA-  
CIFIC COAST et al.,

Defendants and Appellees.

DESIGNATION OF PARTS OF RECORD TO  
BE PRINTED.

1. Print the whole record, excepting the bond on appeal, and in lieu thereof, print "Bond for

costs and damages in the sum of \$300,000, filed August 29th, 1925.

2. Omit the caption on all papers excepting the complaint, and in lieu of other captions print "Title of Court and Cause."

3. Omit all verifications and in lieu thereof print "Duly verified."

4. Omit filing certificates and in lieu thereof print, "Filed in — Court, —, 1925, inserting court and date.

5. Print a designation of the paper at the head of each paper, such as "Bill of Complaint," etc.

H. W. HUTTON,

Attorney for Plaintiff and Appellant.

[Endorsed]: No. 4682. In the United States Circuit Court of Appeals for the Ninth Circuit. In Equity. Cornelius Andersen et al., Plaintiff and Appellant, vs. Shipowners Association of the Pacific Coast et al., Defendants and Appellants. Designation of Parts of Record to be Printed. Copy Received this 1st day of September, 1925. C. F. Eldridge, Geo. O. Bahrs, Attys. for Defendants and Appellees. Filed Sep. 2, 1925. F. D. Monckton, Clerk.

[Endorsed]: Printed Transcript of Record. Filed September 12, 1925. F. D. Monckton, Clerk. By Paul P. O'Brien, Deputy Clerk.



**United States**  
**Circuit Court of Appeals**  
**For the Ninth Circuit.**

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CORNELIUS ANDERSON, Suing on Behalf of Himself and All  
Other Seamen Employed in Interstate and Foreign Com-  
merce by Sea on Vessels Flying the Flag of and Engaged  
in the Merchant Service of the United States of America,  
and Sailing to and from Ports of the Pacific Coast of the  
said United States,

Appellant,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST,  
Associates, Agents and Servants, JOHN DOE and  
RICHARD ROE,

Appellees.

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Upon Appeal from the Southern Division of the  
United States District Court for the  
Northern District of California,  
Third Division.

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**PROCEEDINGS HAD IN THE**  
**UNITED STATES CIRCUIT COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT.**

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Supreme Court of the United States.

No. 777—October Term, 1925.

CORNELIUS ANDERSON, etc.,

Petitioner,

vs.

SHIPOWNERS ASSOCIATION OF THE PA-  
CIFIC COAST et al.

ORDER ON PETITION FOR WRIT OF CER-  
TIORARI.

On Petition for Writ of Certiorari to the United  
States Circuit Court of Appeals for the Ninth  
Circuit.

On consideration of the petition for a writ of  
certiorari herein to the United States Circuit Court  
of Appeals for the Ninth Circuit, and of the ar-  
gument of counsel thereupon had,—

IT IS NOW HERE ORDERED by this Court  
that the said petition be, and the same is hereby,  
denied.

November 23, 1925.

A true copy.

[Seal]

Test: WM. R. STANSBURY,  
Clerk of the Supreme Court of the United States.

No. 4682. United States Circuit Court of Ap-  
peals for the Ninth Circuit. Filed Dec. 3, 1925.  
F. D. Monekton, Clerk. By Paul P. O'Brien,  
Deputy Clerk.

[Endorsed]: File No. 31,500. Supreme Court of  
the United States. October Term, 1925. Term No.

777. Order on Petition for Writ of Certiorari.  
Filed November 23, 1925.

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At a stated term, to wit, the October Term, A. D. 1925, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the Courtroom thereof, in the City and County of San Francisco, in the State of California, on Thursday, the third day of December, in the Year of our Lord one thousand nine hundred and twenty-five. Present: The Honorable WILLIAM H. HUNT, Circuit Judge, Presiding; Honorable FRANK H. RUDKIN, Circuit Judge; Honorable WALLACE McCAMANT, Circuit Judge.

No. 4682.

CORNELIUS ANDERSON, Suing on Behalf of Himself and All Other Seamen Employed in Interstate and Foreign Commerce by Sea on Vessels Flying the Flag of and Engaged in the Merchant Service of the United States of America, and Sailing to and from Ports of the Pacific Coast of the Said United States,

Appellant,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST, Associates, Agents and Servants, JOHN DOE and RICHARD ROE,  
Appellees.

ORDER OF SUBMISSION.

ORDERED above-entitled cause argued by Mr. H. W. Hutton, Counsel for the Appellant, and by Mr. Chauncey P. Eldridge, counsel for the appellees, and submitted to the Court for consideration and decision, with leave to counsel for the appellant to file a reply brief within ten (10) days from date, and with leave to counsel for the appellees to reply thereto within two (2) days thereafter, if so advised.

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At a stated term, to wit, the October Term, A. D. 1925, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the Courtroom thereof, in the City and County of San Francisco, in the State of California, on Monday, the eighteenth day of January, in the year of our Lord one thousand nine hundred and twenty-six. Present: The Honorable WILLIAM H. HUNT, Circuit Judge, Presiding; Honorable WILLIAM W. MORROW, Circuit Judge.

No. 4682.

CORNELIUS ANDERSEN, Suing on Behalf  
of Himself and All Other Seamen Employed  
in Interstate and Foreign Commerce by Sea  
on Vessels Flying the Flag of and Engaged  
in the Merchant Service of the United States  
of America, and Sailing to and from Ports  
of the Pacific Coast of the said United States,  
Appellants,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST, Associates, Agents and Servants.

JOHN DOE and RICHARD ROE,  
Appellees.

ORDER DIRECTING FILING OF OPINION  
AND FILING AND RECORDING OF DECREE.

By direction of the Honorable William H. Hunt, Frank H. Rudkin and Wallace McCamant, Circuit Judges, before whom the cause was heard, ORDERED that the typewritten opinion this day rendered by this Court in the above-entitled cause be forthwith filed by the Clerk, and that a decree be filed and recorded in the minutes of this court in accordance with the opinion filed therein.

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In the United States Circuit Court of Appeals for  
the Ninth Circuit.

No. 4682.

CORNELIUS ANDERSON,

Appellant,

vs.

SHIPOWNERS ASSOCIATION OF THE PACIFIC COAST and PACIFIC AMERICAN STEAMSHIP ASSOCIATION,

Appellees.

OPINION U. S. CIRCUIT COURT OF AP-  
PEALS.

Appeal from the District Court for the Northern  
District of California, Southern  
Division.

Before HUNT, RUDKIN and McCAMANT, Cir-  
cuit Judges.

Appellant, hereinafter called plaintiff, sues on behalf of himself and all other seamen employed in interstate and foreign commerce by sea on American merchant vessels sailing to and from Pacific Coast ports of the United States. He seeks to enjoin certain practices of appellees, hereinafter called the defendants, in the employment of seamen on the ground that these practices constitute a restraint of interstate and foreign commerce. The District Court sustained defendants' motion to dismiss.

McCAMANT, Circuit Judge.—The practices sought to be enjoined are stated with some fulness in the opinion of this Court in the suit brought by Alfred Street against these same defendants, 299 F. 5; also in the opinion of the Supreme Court in the same case 263 U. S. 334. It is charged that the defendants control every vessel flying the American flag and engaged in the carrying of passengers and cargo between Pacific Coast ports and other American and foreign ports; that they have established a system for registering seamen and that it is impossible for a seaman not registered with them to secure employment. Plaintiff alleges that on the 15th of June, 1925, he applied at the offices of the

defendants in San Francisco for employment as a seaman and was refused employment because he did not have the registration papers required by the defendants' rules. It is alleged that on the 18th of June plaintiff was employed by the mate of the Steamship "Caddopeak," that defendants interfered with plaintiff's contract of employment and caused his employer to dispense with his services, to plaintiff's damage in the sum of \$135.

Defendants challenge the jurisdiction of the federal courts. It is conceded that the jurisdiction cannot rest on diversity of citizenship because the amount in controversy is less than \$3,000. *Pinel vs. Pinel*, 240 U. S. 594, 596-697.

Plaintiff relies on Section 24 of the Judicial Code, Section 991 Comp. Stat., subdivisions 8 and 23, These statutes are as follows:

"The District Courts shall have original jurisdiction as follows:

"Eighth. Of all suits and proceedings arising under any law regulating commerce, except those suits and proceedings exclusive jurisdiction of which has been conferred upon the Commerce Court."

"Twenty-third. Of all suits and proceedings arising under any law to protect trade and commerce against restraints and monopolies."

Plaintiff also relies on Section 16 of the Clayton Act, Section 88350 Comp. Stat., which is in part as follows:

"Any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United

States having jurisdiction over the parties, against threatened loss or damage by a violation of the antitrust laws."

It is not alleged that the purpose of the practice complained of is the restraint of interstate or foreign commerce. It is contended that less capable men are employed on vessels than would be employed if the officers of the vessels looked after the employment of seamen. This result is alleged to follow from defendants' practice of employing seamen in the order in which they apply for work. This is at most an indirect and incidental impediment to the transaction of interstate commerce. The conduct complained of falls without the inhibition of the Sherman Act, the Clayton Act, and the federal anti-trust acts generally. *Street vs. Shipowners Association*, 299 F. 5; *Tilbury v. Oregon Stevedoring Co. Inc.*, 7 F. (2d) 1. The law applicable to this contention of plaintiff has been stated by this Court so clearly and so recently in these decisions that it would serve no good purpose to restate the law and cite in this opinion the cases construing the federal anti-trust laws.

It is sought to distinguish the *Street* case on the ground that it was not alleged that plaintiff therein had applied for employment and been refused. This allegation, however, is found in the bill of complaint in the *Tilbury* case which was adjudged insufficient by the District Court for Oregon and by this Court.

It is also contended that the practices complained of violate the federal statutes defining the manner in which seamen are to be employed and the nature



of the shipping contract. Sections 4508, 4514, 4515, 4551 and 4612 R. S., Sections 8297, 8304, 8305, 8340 and 8392 Comp. Stat. The registration of seamen by the defendants and the arrangements made for their employment are preliminary to the execution of the form of contract required by the statute. It does not appear from the bill that the defendants have taken seamen to sea without execution before a commissioner of the statutory contract or that defendants have otherwise violated the above statutes.

If plaintiff has a cause of action it is not cognizable in the federal courts.

The decree is affirmed.

[Endorsed]: Filed Jan. 18, 1926. F. D. Monckton, Clerk. By Paul P. O'Brien, Deputy Clerk.

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United States' Circuit Court of Appeals for the  
Ninth Circuit.

No. 4682.

CORNELIUS ANDERSEN, Suing on Behalf of  
Himself and All Other Seamen Employed in  
Interstate and Foreign Commerce by Sea on  
Vessels Flying the Flag of and Engaged in  
the Merchant Service of the United States  
of America, and Sailing to and from Ports  
of the Pacific Coast of the said United  
States,

Appellants,

vs.

SHIPOWNERS ASSOCIATION OF THE PA-  
CIFIC COAST, Associates, Agents and Ser-  
vants, JOHN DOE and RICHARD ROE,  
Appellees.

DECREE U. S. CIRCUIT COURT OF AP-  
PEALS.

Appeal from the Southern Division of the Dis-  
trict Court of the United States for the Northern  
District of California, Third Division.

This cause came on to be heard on the Tran-  
script of the Record from the Southern Division of  
the District Court of the United States for the  
Northern District of California, Third Division  
and was duly submitted.

On consideration whereof, it is now here ordered,  
adjudged, and decreed by this Court, that the de-  
cree of the said District Court in this cause be,  
and hereby is, affirmed, with costs in favor of the  
appellees and against the appellant.

It is further ordered, adjudged and decreed by  
this Court, that the appellees recover against the  
appellant for their costs herein expended, and have  
execution therefor.

[Endorsed]: Filed and Entered January 18,  
1926. F. D. Monckton, Clerk. By Paul P.  
O'Brien, Deputy Clerk.

United States Circuit Court of Appeals for the  
Ninth Circuit.

No. 4682.

CORNELIUS ANDERSON, Suing on Behalf of  
Himself and All Other Seamen Employed in  
Interstate and Foreign Commerce by Sea on  
Vessels Flying the Flag of and Engaged in  
the Merchant Service of the United States  
of America, and Sailing to and from Ports  
of the Pacific Coast of the said United States,  
Appellants,

vs.

SHIPOWNERS ASSOCIATION OF THE PA-  
CIFIC COAST, Associates, Agents and Ser-  
vants, JOHN DOE and RICHARD ROE,  
Appellees.

CERTIFICATE OF CLERK U. S. CIRCUIT  
COURT OF APPEALS FOR THE NINTH  
CIRCUIT TO RECORD CERTIFIED  
UNDER RULE 35 OF THE REVISED  
RULES OF THE SUPREME COURT OF  
THE UNITED STATES.

I, F. D. Monekton, as Clerk of the United States  
Circuit Court of Appeals for the Ninth Circuit  
Circuit Court of Appeals for the Ninth Circuit do  
hereby certify the foregoing forty-seven (47) pages,  
47, to be a full, true and correct copy of the entire  
record of the above-entitled case in the said Circuit  
Court of Appeals, made pursuant to request of

counsel for the appellant and certified under Rule 35 of the Revised Rules of the Supreme Court of the United States, as the originals thereof remain on file and appear of record in my office.

ATTEST my hand and the seal of the said the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 1st day of February, A. D. 1926.

[Seal]

F. D. MONCKTON,  
Clerk.

By Paul P. O'Brien,  
Deputy Clerk.

## SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed April 19, 1926

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(2340)